

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
SUNSET CONSTRUCTION, INC.,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 392

FINAL FINDINGS OF FACT,
CONCLUSIONS AND ORDER

THIS MATTER being an appeal of a \$50.00 civil penalty for an alleged open burning violation having come on regularly for hearing before the Pollution Control Hearings Board on the 27th day of December, 1973 at Seattle, Washington; and appellant Sunset Construction, Inc. appearing by its president, A. C. DiPangrazio and respondent Puget Sound Air Pollution Control Agency appearing through its attorney Keith D. McGoffin; and Board members present at the hearing being Walt Woodward and Mary Ellen McCaffree; and the Board having considered the sworn testimony, exhibits, records and files herein and having entered on the

1 11th day of January, 1974, its proposed Findings of Fact, Conclusions
2 and Order; and the Board having served said proposed Findings,
3 Conclusions and Order upon all parties herein by certified mail, return
4 receipt requested and twenty days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,
6 Conclusions and Order; and the Board being fully advised in the premises;
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
9 Findings of Fact, Conclusions and Order, dated the 11th day of
10 January, 1974, and incorporated by this reference herein and attached
11 hereto as Exhibit A, are adopted and hereby entered as the Board's
12 Final Findings of Fact, Conclusions and Order herein.

13 DONE at Lacey, Washington, this 5th day of February, 1974.

14 POLLUTION CONTROL HEARINGS BOARD

15 Walt Woodward
16 WALT WOODWARD, Chairman

17 Mary Ellen McCaffree
18 MARY ELLEN McCAFFREE, Member

19
20 CERTIFICATION OF MAILING

21 I, Dolores Osland, certify that I mailed copies of the foregoing
22 document on February 11th, 1974 to each of the following parties:

23 Mr. A. C. DiPangrazio
24 Sunset Construction, Inc.
25 Highway 99 North
26 Edmonds, Washington 98020

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS AND ORDER

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FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter the appeal of a \$50.00 civil penalty for an alleged open burning violation of respondent's Regulation I, came before the Pollution Control Hearings Board (Walt Woodward, presiding officer, and Mary Ellen McCaffree) at a formal hearing in the Washington Commerce Building, Seattle, Washington, at 9:30 a.m., December 27, 1973.

Appellant was represented by A. C. DiPangrazio, President of Sunset Construction, Inc. Respondent appeared through Keith D. McGoffin. Louise Blakely, Seattle court reporter, recorded the proceedings.

EXHIBIT A

1 Witnesses were sworn and testified. Exhibits were admitted.

2 From testimony heard and exhibits examined, the Pollution Control

3 Hearings Board makes these

4 FINDINGS OF FACT

5 I.

6 On May 29, 1973, at a house construction site at 20018-103rd
7 Place N.E., Bothell, King County, two small open fires of paper,
8 scrap lumber and a piece of plastic pipe were burned by appellant.

9 II.

10 These fires and smoke therefrom were observed by an inspector
11 on respondent's staff. He issued to appellant Notice of Violation
12 Number 7816, citing Section 9.02 of respondent's Regulation I.
13 Subsequently, and in connection therewith, respondent served on
14 appellant Notice of Civil Penalty No. 915 in the sum of \$50.00, which
15 is the subject of this appeal.

16 III.

17 Section 9.02 of respondent's Regulation I makes it unlawful to
18 burn plastics and waste other than natural vegetation in outdoor fires.
19 Section 3.29 of respondent's Regulation I authorizes respondent to
20 levy a civil penalty of not more than \$250.00 for any violation of
21 Regulation I.

22 IV.

23 Appellant, on May 29, 1973 and prior to setting the fires,
24 obtained a burning permit from the Bothell Fire Department. Appellant
25 contends, but did not prove with corroborating testimony, that the
26 permit, which was not offered in evidence, was issued after appellant

27 FINDINGS OF FACT,

CONCLUSIONS AND ORDER

1 sought a permit for construction waste burning. Appellant did not
2 read the permit and its regulations until after contacted by the
3 inspector relative to the alleged violation.

4 From these findings, the Pollution Control Hearings Board comes
5 to these

6 CONCLUSIONS

7 I.

8 Appellant was in violation of Section 9.02 of respondent's
9 Regulation I as cited in Notice of Violation No. 7816.

10 II.

11 Appellant believed it held a permit which authorized the fires.
12 Therefore, the Pollution Control Hearings Board issues this

13 ORDER

14 The appeal is denied and appellant is directed to pay \$25.00
15 to respondent, the balance of \$25.00 to be suspended pending no
16 further similar violations for a period of six months from the date
17 this order becomes final.

18 DONE at Lacey, Washington this 11th day of January, 1974.

19 POLLUTION CONTROL HEARINGS BOARD

20 Walt Woodward
21 WALT WOODWARD, Chairman
22

23 Mary Ellen McCaffree
24 MARY ELLEN McCAFFREE, Member
25

26 FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER